

Service Date: October 30, 1989

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	TRANSPORTATION DIVISION
of Burlington Northern Railroad)	
Company to remove its House Tracks)	DOCKET NO. T-9137
and Unloading Dock at Forsyth,)	
Montana.)	ORDER NO. 5957

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FINAL ORDER

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On November 2, 1987 Burlington Northern Railroad Company (BN) filed a notice with the Montana Public Service Commission (Commission) that it would remove its house tracks and unloading dock at Forsyth, Montana unless advised otherwise by the Commission. Shortly thereafter the Commission received information that BN had already removed the tracks and dock in violation of 69-14-813(2), MCA.

As a result of this information the Commission issued an Order to Show Cause why BN should not be ordered to replace the tracks and be fined pursuant to 69-14-814, MCA. Several protests to the removals were received and the Commission held a hearing on April 5, 1988. The purpose of the hearing was to determine whether a need existed for the tracks and loading dock.

At the hearing it was apparent from the testimony that a need exists for an adequate track and dock facility for shipping and receiving freight at Forsyth. The testimony did not establish, however, that the particular tracks and dock facility that had been removed were necessary. Therefore, BN proposed that if protests to its application to remove the dock and tracks were withdrawn, and if the Commission would agree to forego further legal action on the unauthorized removal of those same facilities, then BN would construct a new dock facility near existing track for shipping and receiving freight.

BN's proposal was accepted, but the Docket was held open pending notice to the Commission from Rosebud County that a new dock had been completed satisfactory to the needs of shippers and receivers at Forsyth.

On September 25, 1989 the Commission received a letter from the Rosebud County Commissioners indicating that a new dock has been satisfactorily completed.

CONCLUSIONS OF LAW

The Commission exercises jurisdiction over the removal of sidetrack, spur track, and loading facilities pursuant to 69-14-813, MCA.

The Commission has provided adequate notice and opportunity to be heard to all interested parties in this matter pursuant to Montana Code Annotated Title 2, Chapter 4.

The public convenience and necessity does not require the continued maintenance of the tracks and unloading dock at issue in this Docket.

ORDER

Now Therefore It Is Ordered that BN's application to remove the house tracks and loading dock at Forsyth, Montana is granted. Further, finding that BN has constructed a satisfactory new

dock facility at Forsyth, the Commission declares that it will take no further legal action with respect to the unauthorized removal of the house tracks and loading dock. Docket No. T-9137 is hereby closed.

Done and Dated this 30th day of October, 1989 by a vote of
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BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Vice Chairman

JOHN B. DRISCOLL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.